

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DANIEL O'NEILL,

Plaintiff,

vs.

No. CIV 09-0597 MCA/LFG

STATE OF NEW MEXICO,  
FIRST DISTRICT COURT,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION  
AND DISMISSING CASE**

THIS MATTER came before the Court on the Magistrate Judge's Report and Recommendation [Doc. 10], filed August 19, 2009. The deadline for filing objections to the Report and Recommendation has passed, and Plaintiff Daniel O'Neill ("O'Neill") did not file objections denominated as such. However, O'Neill sent a letter to the Clerk of Court on September 2, 2009 [Doc. 11] in which he asks the Court "to re-consider the decision made by the Magistrate Court to dismiss my case." This document will be treated as an objection and has been considered in the Court's *de novo* review of the Magistrate Judge's Report and Recommendation.


The Magistrate Judge rejected O'Neill's petition for writ of mandamus, on grounds the relief requested by O'Neill is not available by way of extraordinary writ against state and local officials. The Magistrate Judge further found that no relief is available on O'Neill's *pro se* petition even if construed as a request for habeas corpus or an action for injunctive or declaratory relief. The Magistrate Judge recommended dismissal for lack of jurisdiction, citing the Rooker/Feldman doctrine, and because abstention is appropriate under Younger v. Harris, 401 U.S. 37 (1971).

The Court considered the letter sent by O'Neill and finds no grounds therein to reject the Magistrate Judge's analysis. This Court cannot grant the relief O'Neill requests – that is, to order that he be transferred to a different facility based on his allegation that Secretary of Corrections Joe

Williams tried to have him killed because he turned Williams in for purchasing illegal drugs – nor does the Court have the power, in considering a petition for writ of mandamus, to create the ideal judicial/corrections system which O'Neill sets forth in general terms in his letter.

IT IS THEREFORE ORDERED that Plaintiff's objections are overruled and the Court adopts the Magistrate Judge's Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's Petition/Complaint is dismissed, and this case is hereby dismissed with prejudice.

  
UNITED STATES DISTRICT JUDGE